

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

JIM HARGRAVE,

§

Petitioner,

§

VS.

§ CIVIL ACTION NO. C-08-129

WARDEN SMITH,

§

Respondent.

§

**ORDER ADOPTING AMENDED MEMORANDUM AND
RECOMMENDATION TO DENY PETITIONER'S
MOTION FOR A CERTIFICATE OF APPEALABILITY**

On September 8, 2008, United States Magistrate Judge Brian L. Owsley signed a Memorandum and Recommendation recommending that petitioner's motion for a certificate of appealability (D.E. 23) be denied; and further, that petitioner be advised that he may request the issuance of a certificate of appealability from a federal circuit court of appeals judge if final judgment is entered against him and he seeks to appeal any denial of his claims. Seeing no objection to this recommendation by either party and having now reviewed the recommendation, this Court hereby adopts as its own the Memorandum and Recommendation as the decision of the Court. Accordingly, it is

ORDERED that petitioner's motion for a certificate of appealability is denied. Petitioner may request the issuance of a certificate of appealability from a federal circuit court of appeals judge if he seeks to appeal any denial of his claims.

The clerk shall enter this order and provide a copy to all parties.

SIGNED and ORDERED this 14th day of October, 2008.



Janis Graham Jack
United States District Judge